

## PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Gust H. Bardy et al. Confirmation No.: 2599  
 Serial No.: 09/940,599 Examiner: J. Jastrzab  
 Filing Date: August 27, 2001 Group Art Unit: 3762  
 Docket No.: 1201.1114101 Customer No.: 28075  
 For: CANISTER DESIGNS FOR IMPLANTABLE CARDIOVERTER-DEFIBRILLATORS

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PETITION UNDER 37 C.F.R. § 1.313(c)(1) TO WITHDRAW APPLICATION  
FROM ISSUE AFTER PAYMENT OF THE ISSUE FEECERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. §1.8 (1(i)(B))

I hereby certify that this correspondence is being transmitted by facsimile to the United States Patent and Trademark Office at 703-872-9306 on the date shown below.

Kathleen L. Boekley

Type or print name of person signing certification

Kathleen L. Boekley

Signature

October 26, 2004

Date

Dear Sir:

Applicants hereby petition for the withdrawal of the above-referenced application from issue under 37 C.F.R. § 1.313(c)(1). The issue fee for this application was paid on September 30, 2004. Applicant has not yet been notified when this application is scheduled to issue.

Claims 83-90 and 92-123 were allowed in this case. However, the subject matter included in allowed claims 104-122 is not supported by the disclosure of the present application as filed. Therefore, claims 104-122 fail to comply with the written description requirement under 35 U.S.C. §112, first paragraph, and as such, are not patentable in the context of the allowed application.

This petition is being filed herewith, canceling claims 104-122. The remaining claims

(i.e., claims 83, 84, 85, 86, 87, 88, 89, 90, and 92-103) are patentable as indicated during examination. As such,

10/28/2004 AKELLEY 00000001 500413 09940599

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Appl. No. 09/940,599

Pet. To Withdraw from Issue dated October 26, 2004

Applicants respectfully request that the application be issued with remaining claims 83-90 and 92-103.

Please charge the petition fee under 37 C.F.R. § 1.17(h) of \$130.00 to Deposit Account No. 50-0413.

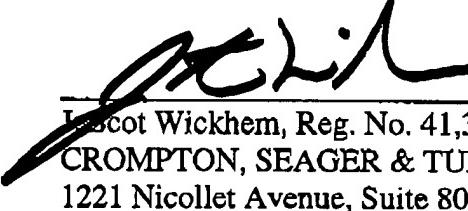
Applicants thank Petitions Examiner Sherry D. Brinkley for the time taken to discuss this petition with Applicants' representative. If a phone conference is believed necessary to resolve any outstanding issues with respect to the above discussion, the Examiner is respectfully requested to contact the undersigned attorney at 612-677-9050.

Respectfully submitted,

Gust H. Bardy et al.

By their Attorney,

Dated: October 26, 2004

  
Lescot Wickhem, Reg. No. 41,376  
CROMPTON, SEAGER & TUFTE, LLC  
1221 Nicollet Avenue, Suite 800  
Minneapolis, Minnesota 55403-2420  
Telephone: (612) 677-9050  
Facsimile: (612) 359-9349

Attachment: Amendment

**CROMPTON | SEAGER | TUFTE | LLC**

Patent, Trademark &amp; Copyright Attorneys

1221 Nicollet Avenue, Suite 800  
Minneapolis, Minnesota 55403-2420  
Phone 612.677.9050  
Fax 612.359.9349

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**OFFICE OF PETITIONS****FAX TRANSMISSION**

DATE: October 26, 2004

TO: Commissioner for Patents  
Attn: Sherry D. Brinkley, Petitions Examiner  
P.O. Box 1450  
Alexandria, VA 22313-1450

FROM: J. Scot Wickhem

OUR REF: 1201.1114101  
TELEPHONE: 612-677-9050

Total pages, including cover letter: 9

PTO FAX NUMBER: **571-273-0025**

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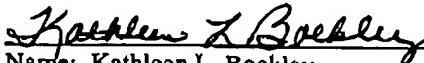
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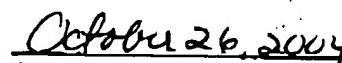
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Customer No.: 28075

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Please charge any additional fees or credit overpayment to Deposit Account No. 50-0413. Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate.

By:   
Name: J. Scot Wickhem  
Reg. No. 41,376

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Name: Kathleen L. Boekley

  
Date

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